

REMARKS

I. Status of the Application

Claims 9, 12, 19 and 26-38 are pending in this application. In the November 25, 2008 office action, the Examiner:

A. Rejected claims 9, 12 and 28-33 as failing to comply with the enablement requirement;

B. Rejected claim 9, 12, 19 and 26-38 as failing to comply with the written description requirement;

C. Rejected claims 9, 12, 19 and 26-38 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and

D. Rejected claims 19, 26, 27 and 34-38 because the claimed invention is directed to non-statutory subject matter.

In this response, applicants have amended claims 9, 19, 32, 33, and 37. Applicants respectfully traverse the rejections of the claims and request reconsideration and allowance of the present application based on the foregoing amendments and following remarks.

II. 35 USC 112 – Enablement

The examiner found claims 9, 12 and 28-33 to be non-enabled on the basis that the specification inadequately describes how the scanning section 43 is comprised in the parsing unit 45.

As a first matter, applicants note that the claims have always included the feature of a parsing unit comprising a scanning section (see claims 11 and 14 filed in the preliminary amendment of 7 March 2005). It is therefore surprising that an issue in this regard has only been taken up now in a third non-final office action.

In the interest of compact prosecution, applicants have amended claim 9 to clarify that the scanning section is comprised in the *parser system* (an example of this is shown in Figures 1 and 4). Since claims 12 and 28-33 are directly or indirectly dependent on claim 9 and do not themselves recite the relationship between the scanning section and the parsing unit, applicants trust the amendment to claim 9 overcomes the enablement rejection of all of claims 9, 12 and 28-33.

III. 35 USC 112 – Written Description

The examiner found claims 9, 12, 19 and 26-38 not to comply with the written description requirement on the basis that the specification does not adequately describe how the user inputs programmable offset information.

With regard to the written description requirement, the MPEP notes that ‘[t]he examiner has the initial burden, after a thorough reading and evaluation of the content of the application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims’. Applicants note that no such evidence or reasoning has been provided by the examiner.

In the interest of compact prosecution, applicants have now amended claims 9, 19, 32 and 37 to refer to ‘offset information stored in user-programmable registers’ as opposed to

‘user-programmable offset information’. Given that the amendment mirrors the phraseology of the specification as filed (see original claim 5, for example) and given that the MPEP states that ‘[t]here is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed’, applicants trust the amendments have overcome the written description rejection.

IV. 35 USC 112 – Indefiniteness

The examiner found claims 9, 12, 19 and 26-38 to be indefinite for the following reasons:

- (a) It is unclear what ‘user-programmable offset information’ means –
Applicants trust this finding is now moot in view of the amendment to replace ‘user-programmable offset information’ with ‘offset information stored in user-programmable registers’.
- (b) It is unclear from where the parsing unit is identifying and extracting data –
Applicants have amended claims 9 and 19 to clarify that data is extracted from the sections of packets that form the data stream (as the examiner has correctly interpreted).
- (c) The scanning section identifying the structural features of the packets is ambiguous because only packet sections are received at the interface –
Applicants respectfully disagree. While the scanning section identifies structural features (e.g. layer 2 start) only on sections at a time, the structural features are not those of the sections but are instead features of

the packet. For example, when the start of layer 2 is identified, it is the start of layer 2 of the relevant *packet*, and not of the specific *section* of packet. The specification (see pages 5-8) provides sufficient disclosure as to how structural features of a *packet* can be determined from receiving and processing *sections* at a time.

V. 35 USC 101 – Non-statutory Subject Matter

The examiner found claims 19, 26, 27 and 34-38 to be directed to non-statutory subject matter on the basis that they are process claims that are not tied to any particular machine.

Claim 19 has now been amended to recite a particular computer that includes user-programmable registers, and a scanning section in communication with a first parser and a second parser. In other words, the claimed method must now be run on a computer that is provided with user-programmable registers having therein offset information, and a scanning section (which determines inter alia the location of the start of one or more of layer 2 and layer 3 data in the packets) that is in communication with the first parser and the second parser. These features tie the method to a ‘particular’ machine for at least the reasons that the features impose meaningful limits on the scope of the claim and do not relate to an insignificant extrasolution activity (i.e. the features are there to carry out the core aspects of the method, and not extraneous steps irrelevant to the method).

Applicants respectfully submit for the reasons above that claim 19 is directed to statutory subject matter. Claims 26, 27 and 34-38 are also directed to statutory subject matter at least by virtue of their dependency on claim 19.

VI. Conclusion

For all of the foregoing reasons, it is respectfully submitted the applicant has made a patentable contribution to the art. Favorable reconsideration and allowance of this application is therefore respectfully requested.

In the event applicant has inadvertently overlooked the need for an extension of time or payment of an additional fee, the applicant conditionally petitions therefore, and authorizes any fee deficiency to be charged to deposit account 13-0014.

Respectfully submitted,

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